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AMENDMENT TO ARTICLE 13 OF THE STATUTE OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Amendment to article 13 of the statute of the United Nations Administrative Tribunal" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to the request contained in a note by the Secretary-General (A/52/142 and Add.1).

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 15th and 29th meetings, on 24 October and 14 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.15 and 29).

4. For its consideration of the item, the Committee had before it the note by the Secretary-General (A/52/142 and Add.1).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.11

5. At the 29th meeting, on 14 November, the Chairman introduced a draft resolution entitled "Amendments to article 13 of the statute of the United Nations Administrative Tribunal" (A/C.6/52/L.11) and orally revised it by replacing the word "would" in operative paragraphs 1 (a) and (b) with the word "shall".

6. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.11, as orally revised, without a vote (see para. 7).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Amendment to article 13 of the statute of the United Nations Administrative Tribunal

The General Assembly,

Having considered the note by the Secretary-General of 17 September 1997 entitled "Amendment to article 13 of the statute of the United Nations Administrative Tribunal",[1]

Noting the proposal of the International Court of Justice referred to in that note that the statute of the Tribunal be modified to provide for the exercise of its competence in respect of the staff of the Registry of the International Court of Justice,

Recognizing that the competence of the Tribunal in Joint Staff Pension Fund cases, as approved by the General Assembly in resolution 955 (X) of 3 November 1955, is not reflected in the statute of the Tribunal,

Noting the proposal of the Secretary-General, set out in the note, to amend the statute of the Tribunal by providing that its competence may be extended to international organizations and entities participating in the common system of conditions of service,

Desiring to amend the statute of the Tribunal in accordance with the proposals referred to in the note by the Secretary-General,

Convinced of the desirability of reviewing more generally the provisions of the statute of the Tribunal at an early date,

1. Decides to amend article 13 of the statute of the United Nations Administrative Tribunal, with effect from 1 January 1998, as follows:

(a) New paragraphs 1, 2 and 4 shall be inserted to read:

"1. The competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions;

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[1] A/52/142/Add.1.

"2. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by:

(a) Any staff member of a member organization of the Fund which has accepted the jurisdiction of the Tribunal in Joint Staff Pension Fund cases who is eligible under article 21 of the Pension Fund regulations as a participant in the Fund, even if his employment has ceased, and any person who has acceded to such staff member's rights upon his death;

(b) Any other person who can show that he is entitled to rights under the Pension Fund Regulations by virtue of the participation in the Fund of a staff member of such member organization;

"4. The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal";

(b) Former article 13 shall be renumbered paragraph 3 of article 13.

2. Also decides to include in the provisional agenda of its fifty-third session an item entitled "Review of the statute of the Administrative Tribunal of the United Nations".